C.F. 71.

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Department of Revenue

OFFICE of the Bd. of Rev.

STATION Madras

Mis No. 1711

P-1723/37

Dated 14-6-37

Jm
18/6/37

Pages in the file

(SUBJECT.)

Stamp Act — Duty — (South Kanara) — Power-of-Attorney — Registration of 3 documents not in relation to a single transaction — Presentation of an application for transfer of registry — Orders passed.

REGISTRATION DEPARTMENT.

From

M.R.Ry.Diwan Bahadur B.V.Sri Hari Rao Nayudu Garu, B.A.,B.L.,M.L
Inspector-General of Registration,
MADRAS.

The Secretary to the Board of Revenue,
MADRAS.

No.387 Genl. dated 25th May 1937.

Sir,

Subject:- Indian Stamp Act of 1899 - Art.40 (g) of Schedule I-A - powers of attorney - Stamp duty.

I beg to address the Board regarding the Stamp Duty on the following document (copy enclosed) referred to me by the Registrar, South Kanara. It is a power of attorney authorising the agent to present and admit execution of 3 documents not in relation to a single transaction and also authorising him to sign and present an application for transfer of revenue registry in respect of one of the documents. A power of attorney for the registration of a sale deed and for presenting an application for transfer of revenue registry was held to fall under Article 48 (c) (B.P.1740 R.Mis. 16.11.17). A power for the registration of 3 separate documents not in relation to a single document was held to fall under Article 48 (g) (B.P.321 Mis. dated 21.12.1933). The present case is a combination of the two cases referred to above. The question is, under which article the document falls.

2. The Registrar of South Kanara argues that if a power for procuring the registration of 3 unconnected documents can be on a stamp of Rs.1-8-0 only, a power for the registration of 3 documents and for presenting an application for transfer of registry can also be on a stamp of Rs.1-8-0. I am doubtful, if the article can be so extended

extended as to cover this case also. My own view is that the document falls under article 48 (d) requiring a stamp of Rs.7-8-0. I beg to be informed whether my view is correct.

P.135(S.M.)

I have the honour to be,
Sir,
Your most obedient servant,

Chengalvaraya Pillai 28-V-27

Personal Assistant,
or Inspr. Genl. of Regn.

Enclos: one

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P.R.S.

Translation of special power of attorney No.6 of 1937 of Sub-Registry Office, Brahmawar presented with document Nos.P.3, 4 and 5 dated 19.3.37 Book 1 of Sub-Registry Office, Sankaranarayana.

Power of attorney executed in favour of Sankayya Hegde son of Krishnayya Hegde, of Nadava caste, ryot, residing in Padubettu of No.38 Kalthuru village, Udipi Taluk, by (1) Chandakka Hegadthi daughter of Chikkamma Hegadthi, (2) Thungamma Hegadthi daughter of No.1 Chandakka Hegadthi, (3) Narayana Hegde, (4) Kamala Hegadthi (5) Sanjivi Hegadthi, (6) Manabala (7) Abbakka, children of No.2 Thungamma Hegadthi (8) Ananda son of Achamma Hegadthi who is the daughter of No.2 and direct sister of No.3 and now deceased, (9) Korapalu Hegadthi, daughter of Narshi Hegadthi who is daughter of No.1 and direct sister of No.2 and now deceased (10) Venkappa, (11) Manjayya (12) Daramma (13) Sheenappa, children of No.9 Korapalu Hegadthi of these Nos.6,7,8,10,11,12 and 13 being minors, the rest on their own behalf and No.2 on behalf of the minors Nos.6,7 and 8, and No.9 on behalf of minors Nos.10,11,12 and 13 also, all being of the aforesaid caste and occupation and residing in Malepadubettu of the said Kalthuru village. We fully authorize you on our behalf and on behalf of the minors to present at the office of the Sub-Registrar of Sankaranarayana and get registered by giving your consent and requisite signatures, the three documents viz., (1) the partition deed executed by us on 11.3.1937, regarding the division of our property described below into two shares, assigning the first share to the second of us and to her branch and the second share to the ninth among us and to her branch (2) the mortgage deed for Rs.600/- executed by Nos.2,3,4 and 5 among us on their own behalf and No.2 also as guardian of the said minors under her protection, in favour of Giriamma Shedthi of Kadoor village, daughter of Hulabettu Thungamma Shedthi and wife of Kalthuru Padubettu Koraga Hegde, in respect of property pertaining to the first share as per aforesaid partition, and (3) the mortgage deed for Rs.800/- executed by No.9 among us on 11.3.1937 on her own behalf and on behalf of the aforesaid minors under her protection as their guardian in favour of Mukambike of Nilavara village, daughter of Thadekallu Manjakke Shedthi and wife of Kalthuru Padubettu Sankayya Hegde, in respect of property pertaining to the second share as per aforesaid partition; and we also authorize you to give your

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on this basis
under reference / is three times
12 as. plus Rs 1/8/0 under Arts.
40 (a) & 40 (c) of Sch. I-A and
Sec. 5 of the Indian Stamp Act.

Pp. 120 4 cy (S.M.)
To the D.C. of Regns, Madras.

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12-6-37
Cop
12-6-37

+ is less than the duty
which would be leviable
under Art. 40 (d) of
Sch I.A. the Board
considers sufficient
to levy the smaller duty
in this case

Issue & keep draft c/c
11/6

14.6.

consent and signature on our behalf for the transfer of revenue registry in accordance with the partition deed. This power also witnesseth that all acts to be done by you on our behalf and on behalf of the minors in connection with the registration of the aforesaid documents and the transfer of patta under this power shall have the same force as if they were done by us. Description of property. All the properties pertaining to the first and the second shares as shown in the abovementioned partition deed and belonging to No.38 Kalthuru village of Udipi Taluk, Sankaranarayana sub-district, South Kanara Registration District.

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C.F. 16.

DRAFT FOR APPROVAL.

	Date.	Initials.
When received for fair copying		
When copied	16/6/37	Lekh
When examined	Ysf 17/6	
When signed	17/6	
When despatched.		

SUBJECT:— Stamp Act — duty — (South Kanara) — Power of Attorney — Registration of 3 documents not in relation to a single transaction — presentation of an application for transfer of registry — Orders passed.

(C) READ ~~AGAIN~~ B.P.No 66 (Press), dated 22-3-1906 — Q 19....

(J) " " B.P. No 1740 Mis. " 16-11-1917 — Q 19....

(B) READ *ALSO*:— B.P. No 321 Mis. " 21-12-33 — Q

bb1-2 ~~of~~ No. ..... From the I.G. of Regn., Madras, No. 387 Genl, dated 25-5-1937 — Q

" ..... " ..... " ..... " ..... 19....

" ..... " ..... " ..... " ..... 19....

~~Order~~ Resolution ~~Rout.~~ Ms. No 1911, dated 14-6-1937.

The Bd., as at present constituted is inclined to think that where a power-of-attorney is executed in favour of a person ~~not in relation to a single transaction~~ for several purposes, the duty on it should be levied as if separate powers-of-attorney had been executed for each of the purposes for which the document has been executed — Vide Sec. 5 of the Indian Stamp Act ~~in which especially where duty calculated on the aggregate of the duties leviable for all, short of the duty leviable under Art. 4 o(d) of Sch. I — the~~ following this principle, the duty payable on the power of attorney under

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ontain bears
under reference is three times
12 as. plus Rs 1/8/0 under Arts.
40 (a) & 40 (c) of Sch. I-A and
Sec. 5 of the Indian Stamp Act.

It is less than the duty
which would be leviable
under Art. 40 (d) of
Sch I.A. the Board
considers sufficient-
to levy the smaller duty
in this case

14.6

pp. 180 4/6 (S.M.)
To the D.R. of Regns, Madras.

Issue & keep clean
14/6

7

Board of Revenue, M a d r a s.

A.H.A.Todd, Esquire, C.I.E., I.C.S., Commissioner of Separate Revenue and ~~Excise~~.

Misc., 1911 the 14th June 7

Stamp Act - Duty - (South Kanara) - Power-of-Attorney - Registration of three documents not in relation to a single transaction - Presentation of an application for transfer of registry - Orders passed -

-:-

B.P.No.66 Press dated the 22nd March 1906.

B.P.No.1740 Misc., dated the 15th November 1917.

B.P.No.321 Misc., dated the 21st December 1933.

Letter from the Inspector-General of Registration, Madras No.387 Genl., dated the 25th May 1937.

RESOLUTION.

The Board as at present constituted, is inclined to the view that where a power-of-attorney is executed in favour of a person for several purposes, the duty on it should be levied as if, separate powers-of-attorney had been executed for each of the purposes for which the document has been executed - vide Section 5 of the Indian Stamp Act. The duty payable on the power-of-attorney under reference on this basis is three times 12 annas plus Rs.1-8-0 under Articles 40(a) and 40(c) of Schedule I.A and Section 5 of the Indian Stamp Act and is less than the duty which would be leviable under Article 40(d) of Schedule I-A. The Board considers it sufficient to levy the smaller duty in this case.

(True Extract)

(Sd)T.N.S.Raghavan,
Additional Joint Secretary.

To the Inspector-General of Registration, Madras.

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F o r w a r d e d
(By O r d e r)

Superintendent.

c.n.n./16-6-1937.

M3
A.J.S

Note file

[Stamp Act — Duty — (South Kanara) — Power-of-Attorney — Registration of 3 documents not in relation to a single transaction → Presentation of an application for transfer of registry — Bd's orders requested.]

P. 172-3/37

A.J.S.

Please see the letter from the D.R. of Regs., Madras, on pp.1-2 of. He requests the Bd's orders on the question of stamp duty payable on the document at pp.3-4 of.

The Power-of-Attorney under refer ~~is~~ is for the registration of 3 separate documents (one partition deed & 2 mortgage deeds) ~~and for~~ not connected with the same ~~single~~ transaction and for presenting an application for transfer of registry in respect of one of the documents. A ~~power given~~ to an individual ~~for the~~ purpose of ~~getting~~ documents ~~not~~ in relation to ~~a single transaction~~ was considered to ~~fall~~ under Art. 48(g) of Sch. I-A on the analogy of the High Court ruling in 1906, and a power of attorney for the registration of a sale deed and for presenti-

+ p. 11 of & p. 12 of (B). H.C. Ruling p. 4 of (5). p. 181 (S.M.)

an application for transfer of revenue registry was held to fall under Art. 40(e) of Sch. I-A in B.P. 1740 Mis. § 16-11-417. The power-of-attorney at pp. 3-4 ff. is for the dual purpose of registering 3 separate documents & for presenting an application of the transfer of registry in connection with one of those documents.

p. 180 (S.M.)

p. 22 (J)

The High Court has not given any reason for their view at p. 4 (G). As the ruling has, however, been followed in 4133, perhaps the document at pp. 3-4 ff. may be considered to comprise two distinct matters within the meaning of Sec. 5 of the Indian Stamp Act and to be chargeable to duty under Arts. 40 (e) & 40(g) of Sch. I-A (i.e., Rs 1/8/0 in each case). The D.G. of Regn. is of opinion that it may be treated under Art. 40 (d) of Sch. I-A to a stamp duty of Rs. 7/8/0.

p. 19 (S.M.)

— pp 180 & 181 (S.M.)

p. 2 of p. 180 (S.M.)

For orders.

4.6.37

4.6.37

With respect, it seems to me that the decision on p. 4 of (G) was wrong. Art. 40 (g) relates to "any other case" & this article cannot apply at all unless the case does not fall under any of the clauses (a) to (f). The duty under clause (g) is "Re 1-8-0 for each person authorised" Read with

clauses (d) & (e). I would say that it applies to cases where more than 10 persons are authorised to act jointly & severally in more than one transaction or generally. Three items that would each fall under clause (a) cannot make one item under (g). In virtue of section 5 of the Act the duty in such a case is Three times the duty prescribed under (a).

As regards the document on pp. 3-4 C.F. the alternatives seem to be

1) to accept the I.G's opinion that it is liable to a duty of Rs 7-8-0 under Art. 40(d)

or

2) to levy duty as if separate powers of attorney had been executed for each of the purposes intended in the document, i.e. to levy Three 12 annas plus Re 1-8-0

I think that section 5 is sufficiently general to warrant the second alternative & where this would give a smaller [redacted]

Yes. I agree with the interpretation in para 2 of A.S.'s note. You will see how it can [illegible] fall under 40(d) to the benefit of paying the smaller duty.

10 Oct 9/6

8.6.37

M.3.

To A.J.F.

Draft submitted.

12-6-37

A.J.F. [illegible] the Draft